

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RALPH MILLER,

No. C 02-2118 MJJ (MEJ)

Plaintiff(s),

vs.

INTERNATIONAL BUSINESS MACHINES, et  
al,

Defendant(s).

**ORDER RE: DEFENDANT'S  
RENEWED MOTION TO RELEASE  
PLAINTIFF'S DOCUMENTS FROM  
CONFIDENTIAL TREATMENT  
DESIGNATION**

Before the Court is defendant International Business Machines' ("IBM") Renewed Motion to Release All of Plaintiff Miller's Documents from Confidential Treatment Designation. Doc. #471. Although Miller filed no opposition to IBM's motion, the Court cannot take the serious nature of IBM's request as lightly as Miller.<sup>1</sup> Accordingly, by May 11, 2006, Miller shall either:

- 1) de-designate all documents he produced as confidential; or
- 2) submit all documents designated as confidential for *in camera* review. If the documents were not properly identified in production (i.e., Bates stamped), Miller shall identify each document by Bates number and ensure that the documents are submitted in the order in which they are marked, with each page attached (i.e., stapled or clipped) in an appropriate

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<sup>1</sup> Although he did not file an opposition, Miller filed a belated declaration regarding designation of confidential materials. Doc. #453. Attached to his declaration are over 100 pages (some duplicates and triplicates) signed by various individuals in relation to confidentiality agreements. The agreements, however, limit the individuals' use of BCC data and do not limit BCC in any way. Accordingly, the confidentiality agreements do not meet Miller's burden of showing that his documents are entitled to confidential treatment and any log he submits cannot rely on said agreements.

1 manner. Further, Miller shall provide a log and, for each document, state the reason for its  
2 confidential designation. Miller shall not make general statements about categories of  
3 documents; rather, he shall state the reason for each individual Bates-numbered document.  
4 For any document Miller fails to properly identify by Bates number, or for which he fails to  
5 properly attach pages, or for which he fails to state a reason for its confidential designation,  
6 said document shall be deemed de-designated. In preparing his log, Miller should note the  
7 Court's statement in footnote 1 regarding confidentiality agreements that control individuals  
8 receiving BCC's data but do not limit BCC.

9 If Miller submits the documents for *in camera* review, he shall serve IBM with a copy of his  
10 log by May 11, 2006. IBM may file a response to Miller's log by May 18, 2006. Miller shall not  
11 file any reply. If Miller fails to submit the documents as specified above by May 11, they shall be  
12 deemed de-designated. Upon *in camera* review of the documents, the Court shall issue an order.

13 **IT IS SO ORDERED.**

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15 Dated: May 4, 2006

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18 MARIA-ELENA JAMES  
19 United States Magistrate Judge  
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